

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT NEW YORK

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ERIC EDWARDS, Individually and on Behalf of All
Other Persons Similarly Situated,

Plaintiffs,

-against-

DECLARATION

THE DEPARTMENT OF CORRECTION OF THE
CITY OF NEW YORK and THE CITY OF NEW
YORK,

08 Civ. 3134 (DLC)

Defendants.
----- X

ANDREA O’CONNOR declares, pursuant to 28 U.S.C. § 1746 and subject to the penalties of perjury, that the following is true and correct:

1. I am an Assistant Corporation Counsel in the office of Michael A. Cardozo, Corporation Counsel of the City of New York, attorney for the defendant in the above-captioned action.

2. I submit this declaration in opposition to plaintiffs’ motion for summary judgment pursuant to Rule 56(b) of the Federal Rules of Civil Procedure.

3. Annexed to this declaration are Exhibits “A” to “II” are documents maintained in the ordinary course of defendant’s business, public records, excerpts from the transcripts of the depositions of Test Plaintiffs, witnesses Ira Kleinburd, Peter Panagi, Frank Squillante and Cynthia Lewis, Cynthia Lewis’ errata sheet and affidavits from Ira Kleinburd and Cynthia Lewis, which are relied upon and cited in defendant’s Local Civil Rule 56.1 Counter Statement Of Material Facts submitted herewith in opposition to plaintiffs’ motion. Copies of these documents and excerpts are as follows:

- A. Complaint in Edwards v. City of New York, Docket No. 08 Civ. 3134 (DLC), dated March 27, 2008, is annexed hereto as Exhibit “A;”
- B. So Ordered Stipulation, dated March 15, 2010, is annexed hereto as Exhibit “B;”
- C. Excerpts from the transcript of Test Plaintiff Derrick Been’s deposition, taken on January 25, 2011, are annexed hereto as Exhibit “C;”
- D. Excerpts from the transcript of Test Plaintiff Michael Crivera’s deposition, taken on January 25, 2011, are annexed hereto as Exhibit “D;”
- E. Excerpts from the transcript of Test Plaintiff Theodore Allbright’s deposition, taken on February 9, 2011, are annexed hereto as Exhibit “E;”
- F. Excerpts from the transcript of Test Plaintiff Harry Bass’s deposition, taken on March 9, 2011, are annexed hereto as Exhibit “F;”
- G. Excerpts from the transcript of Test Plaintiff Alethea Miller’s deposition, taken on March 9, 2011, are annexed hereto as Exhibit “G;”
- H. Excerpts from the transcript of Test Plaintiff Vandoran Ladson’s deposition, taken on December 17, 2010, are annexed hereto as Exhibit “H;”
- I. Excerpts from the transcript of Test Plaintiff Trina Jackson-Gaspard’s deposition, taken on January 21, 2011, are annexed hereto as Exhibit “I;”
- J. Excerpts from the transcript of Test Plaintiff Marilyn Steele’s deposition, taken on December 13, 2010, are annexed hereto as Exhibit “J;”
- K. Excerpts from the transcript of Test Plaintiff Reinaldo Colon’s deposition, taken on December 20, 2010, are annexed hereto as Exhibit “K;”

- L. Excerpts from the transcript of Test Plaintiff Darlene Sanders's deposition, taken on February 3, 2011, are annexed hereto as Exhibit "L;"
- M. Excerpts from the transcript of Test Plaintiff Celestino Montclova's deposition, taken on February 4, 2011, are annexed hereto as Exhibit "M;"
- N. Excerpts from the transcript of Test Plaintiff Augustin Rivera's deposition, taken on December 29, 2011, are annexed hereto as Exhibit "N;"
- O. Excerpts from the transcript of Test Plaintiff John Shaws's deposition, taken on January 11, 2011, are annexed hereto as Exhibit "O;"
- P. Excerpts from the transcript of Test Plaintiff Immanuel Washington's deposition, taken on February 25, 2011, are annexed hereto as Exhibit "P;"
- Q. Excerpts from the transcript of Test Plaintiff Joseph Franco's deposition, taken on March 11, 2011, are annexed hereto as Exhibit "Q;"
- R. Excerpts from the transcript of Test Plaintiff Rafael Crespo's deposition, taken on March 2, 2011, are annexed hereto as Exhibit "R;"
- S. Excerpts from the transcript of Test Plaintiff Noel Gershonowitz's deposition, taken on February 23, 2011, are annexed hereto as Exhibit "S;"
- T. Excerpts from the transcript of Test Plaintiff Philip Kinard's deposition, taken on February 23, 2011, are annexed hereto as Exhibit "T;"
- U. Excerpts from the transcript of Test Plaintiff Julio Contreras's deposition, taken on February 9, 2011, are annexed hereto as Exhibit "U;"
- V. New York City Department of Correction Uniform and Equipment Specifications and Regulations, is annexed hereto as Exhibit "V;"

- W. Excerpts from the transcript of defendant's Rule 30(b)(6) witness Peter Panagi's deposition, taken on January 15, 2009, are annexed hereto as Exhibit "W;"
- X. Excerpts from the transcript of defendant's Rule 30(b)(6) witness Frank Squillante's deposition, taken on December 31, 2008, are annexed hereto as Exhibit "X;"
- Y. Excerpts from the transcript of defendant's Rule 30(b)(6) witness Ira Kleinburd's deposition, taken on October 14, 2010, are annexed hereto as Exhibit "Y;"
- Z. Excerpts from the transcript of defendant's Rule 30(b)(6) witness Cynthia Lewis' deposition, taken on February 28, 2011, are annexed hereto as Exhibit "Z;"
- AA. Errata Sheet for Cynthia Lewis, dated April 18, 2011, is annexed hereto as Exhibit "AA;"
- BB. Affidavit of Ira Kleinburd, dated April 26, 2011, is annexed hereto as Exhibit "BB;"
- CC. Affidavit of Cynthia Lewis, dated April 27, 2011, is annexed hereto as Exhibit "CC;"
- DD. Letter, dated March 18, 2011, from William C. Rand to Andrea O'Connor, is annexed hereto as Exhibit "DD;"
- EE. Delivery Receipt, dated April 18, 2011, is annexed hereto as Exhibit "EE;"
- FF. New York City Department of Citywide Administrative Services 2011 Calendar, is annexed hereto as Exhibit "FF;"

GG. Administrative Order, dated March 17, 1986, is annexed hereto as Exhibit

“GG;”

HH. Pay Details Report for Michael Crivera, is annexed hereto as Exhibit HH;"

II. Collective Bargaining Agreement between the City of New York and the union representing Correction Officers, is annexed hereto as Exhibit “II.”

I declare, under penalty of perjury, that the foregoing is true and correct.

Dated: New York, New York
April 29, 2011

MICHAEL A. CARDOZO
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By: /s/
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Assistant Corporation Counsel

08 Civ. 3134 (DLC)

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SOUTHERN DISTRICT OF NEW YORK

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Defendants

DECLARATION

MICHAEL A. CARDOZO

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*Of Counsel: Andrea O'Connor
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Due and timely service is hereby admitted.

New York, N.Y., 2011.

..... Esq.

Attorney for